## REMARKS

Claims 1, 9, 16, 23, 33, 41, 42, 43 and 44 have been amended and new claims 45-52 have been added as indicated above in accompaniment of a Request for Continued Examination under 37 C.F.R. § 1.114. Support for the new claims 45-52, as well as the other claim amendements, can be found at least at page 7, line 3 to page 32, line 17 of the Specification, and particularly at page 9, lines 9-16 of the Specification, as originally filed. The Applicant respectfully requests that this application be allowed and forwarded on to issuance. No new matter has been introduced by way of claims.

### Examiner Interview

Applicant respectfully thanks the Examiner for the time spent on November 15, 2006 discussing the disposition of this case by telephone with Applicant's representative. During the discussion, Applicant's representative and the Examiner discussed the cited art and some claim modifications that would potentially receive favorable treatment by the Examiner. Applicant greatly appreciates the Examiners comments and suggestions in this regard. While Applicant believes that such modifications are unnecessary, in the spirit of advancing prosecution of this matter, Applicant has made the clarifying amendments listed above and discussed below.

### Objection to the Specification

The Specification is objected to as, in the view of the Office, failing to provide proper antecedent basis for the claimed subject matter. In particular, the Office asserts that "clear support and antecedent basis is not found for the term 'a

tangible computer-readable media' in the specification..." (Page 2 of Office action).

The Applicant believes that this objection has been fully addressed by way of the amendments to the claims. For this reason, and in view of the arguments made below in regard to the § 101 and § 112 rejections, the Applicant respectfully requests that this objection be withdrawn.

**§ 101 Rejections**

Claims 1-8 and 41-44 stand rejected under 35 U.S.C. § 101 because, in the Office's opinion, the claimed invention is directed to non-statutory subject matter. Specifically, the Office asserts that claims 1 and 41-44 are directed to "computer readable media including modulated data signals" (Page 3 of Office action). The Applicant believes in good faith that the Office applies this § 101 rejection to claim 2 in error as such claim has been previously cancelled.

Claims 1 and 41-44 have been respectively amended to recite "computer storage media", thus replacing the rejected language. As discussed in the telephonic interview cited above, the term "computer storage media" is defined and exemplified at page 31, line 24 to page 32, line 7 of the Specification as originally filed. Thus, by exemplification within the Specification, "computer storage media" refers only to those storage entities that are tangible in nature and well within the scope of statutory subject matter according to 35 U.S.C. § 101.

Accordingly, Applicant respectfully submits that claims 1 and 41-44, as respectively amended, as well as claims 3-8 that depend from claim 1 (as amended), comply with the requirements of § 101 and requests that the corresponding § 101 rejections be withdrawn.

**§ 112 Rejections**

Claims 1-8 and 41-44 stand rejected under 35 U.S.C. § 112, second paragraph, for, in the Office's opinion, being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office asserts that claims 1-8 and 41-44 are rejected because "a person of skill in the art would not be able to ascertain the metes and bounds of the claimed invention, specifically, for the term 'a tangible computer-readable media/medium' used in claims 1-8 and 41-44." (Page 4 of Office action). The Applicant believes in good faith that the Office applies this § 112 rejection to claim 2 in error, as that claim has been previously cancelled.

As indicated above in regard to the § 101 rejections, claims 1 and 41-44 have been amended to replace the rejected language. Therefore, the Applicant respectfully submits that claims 1 and 41-44, as respectively amended, as well as claims 3-8 that depend from claim 1 (as amended), comply with the requirements of § 112, second paragraph, and requests that the corresponding § 112 rejections be withdrawn.

**§ 103 Rejections**

Claims 1, 5-11, 15-18, 22-25, 29-33 and 37-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,799,168 ("Ban"), in view of U.S. Patent No. 6,725,321 ("Sinclair").

Claims 3-4, 13-14, 19, 21, 26, 28, 34 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ban in view of Sinclair, in further view of U.S. Patent No. 6,493,807 ("Martwick").

Claims 1, 5-11, 15-18, 22-25, 29-33 and 37-44 stand rejected under 35

U.S.C. § 103(a) as being unpatentable over Ban in view of Sinclair, in further view of U.S. Patent No. 6,253,281 ("Hall").

Claims 3-4, 13-14, 19, 21, 26, 28, 34 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ban in view Sinclair and Hall, in further view of Martwick.

**Further Remarks**

The claims have been amended in view of the telephonic interview cited above. The Applicant believes that the § 102 and § 103 rejections as cited above are moot in view of the amendments to the claims, as further elaborated below in regard to the cited references to Ban, Sinclair, Martwick and Hall.

**Ban**

Ban is directed to controlling flash memory by way of a controller that is embedded into each of the flash chips (i.e., hardware devices) (Abstract of Ban). While Ban discusses use of a standardized driver in conjunction with the flash memory, such driver works exclusively in tandem with the controller (i.e., hardware) installed on each flash memory unit (Col. 2, lines 35-50 of Ban). In fact, Ban specifically states that a principle of operation there under is to move memory control away from the driver installed on the CPU to the controller installed on the flash unit (Col. 2, lines 45-47 of Ban).

In any case, Ban does not teach or suggest a flash memory driver that resides as a component within an operating system or an application, not the least of which being a flash memory driver having the particular features and capabilities as recited by the subject matter of the respective claims, as amended.

In fact, Ban is totally devoid of the term "operating system" or any of its respective equivalents, in any context.

**Sinclair**

Sinclair is directed to various flash memory array management tasks, wherein a controller chip (8) used to perform essentially all such tasks (Fig. 2; Abstract; Col. 10, line 55 to Col. 12, line 2 of Sinclair). Thus, Sinclair is directed to hardware solutions for managing flash memory arrays.

However, Sinclair does not teach or suggest a flash memory driver that resides as a component within an operating system or an application, not the least of which being a flash memory driver having the particular features and capabilities as recited by the subject matter of the respective claims, as amended. In fact, Sinclair is totally devoid of the term "operating system" or any of its respective equivalents, in any context.

**Martwick**

Martwick is concerned with methods and systems for updating memory, wherein contents from a first flash memory block are copied to a following flash memory block. Thereafter, information is updated in the first flash memory block. Furthermore, signals are issued indicating whether attempts to read particular flash memory blocks are considered operational or non-operational (i.e., valid or invalid) (Fig. 5; Abstract; Col. 2, line 65 to Col. 3, line 40 of Martwick). In this way, the integrity of data stored within such flash memory is known and managed on an ongoing basis.

None the less, Martwick does not teach or suggest a flash memory driver that resides as a component within an operating system or an application, not the least of which as a flash memory driver having the particular features and capabilities as recited by the subject matter of the respective claims, as amended. More to the point, Martwick is completely lacking the term "operating system" or any of its respective equivalents, in any context.

**Hall**

The reference to Hall is directed to the use of flash memory for holding program code for a microcontroller, wherein the microcontroller is dedicated to controlling various operations of an optical (e.g., CD-ROM) disk drive (Fig. 1; Abstract; Col. 1, lines 4-48 of Hall). Hall teaches that a primary goal is to preserve an existing (i.e., older) microcontroller program code so that such can be used to recover operation of the disk drive in the event that a power failure interrupts the downloading of new or updated program code (Col. 2, lines 17-26 of Hall). Thus, Hall is concerned with using non-volatile flash memory as a safeguard against failed firmware-upgrade operations.

In any case, Hall does not teach or suggest a flash memory driver that resides as a component within an operating system or an application, not the least of which as a flash memory driver having the particular features and capabilities as recited by the subject matter of the respective claims, as amended.

**New Claims**

New claims 45-52 recite subject matter that is neither taught nor suggested by the references of record. In particular, new independent claim 45 recites:

A method, comprising:

- providing a processor-executable application, ***a flash driver residing as a component within the processor-executable application***;
- ***managing rules associated with operating a flash memory medium by way of the flash driver***; and
- ***issuing physical sector commands directly to the flash memory medium by way of the flash driver, wherein the method is flash memory agnostic by virtue of the flash driver.***

In particular, neither Ban, Sinclair, Marwick nor Hall teaches or suggests - alone or any possible combination – a flash driver residing as a component within a processor-executable application, and wherein particular operations and capabilities are performed by way/virtue of the flash driver, as positively recited by the subject matter of claim 45. The Applicant asserts that new claim 45 is allowable.

New claims 46-52 are also allowable at least by virtue of their dependence from new claim 45, as well as for their own respectively patentable features and limitations.

## Conclusion

The Applicant asserts that the pending claims 1, 3-11, 13-19, 21-26, 28-34 and 36-52 are in condition for allowance. Accordingly, Applicant requests a Notice of Allowability be issued forthwith. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

Respectfully submitted,

Dated: 12/21/06

By: _____

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